

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANDRE W. WARFIELD,

Petitioner,

ORDER

v.

08-cv-0477-slc

GREG GRAMS, Warden,
Columbia Correctional Institution,

Respondent.

On January 30, 2009, this court denied Andre Warfield's petition for a writ of habeas corpus. On March 9, 2009, I entered an order granting him a certificate of appealability on the issue whether the Wisconsin Court of Appeals reasonably applied the test of Jackson v. Virginia, 443 U.S. 307, 319 (1979), to the evidence adduced at trial when it sustained petitioner's convictions for hostage-taking and kidnapping. I declined to certify for appeal Warfield's theory that his convictions violated his substantive due process rights. On August 17, 2009, the Court of Appeals for the Seventh Circuit issued an order affirming the judgment and declining to expand the scope of the certificate. Warfield v. Grams, 2009 WL 2488376 (7th Cir. Aug. 17, 2009) (unpublished slip opinion).

Petitioner has now filed a motion in this court, asking it to expand the certificate of appealability to include the substantive due process issue. The motion must be denied. The court of appeals conclusively decided that issue against petitioner in its August 17 order,

declining to expand the scope of the certificate because it found no merit to petitioner's substantive due process argument. This court has no authority to overturn that decision, which stands as the law of the case. Petitioner's case is now closed.

ORDER

IT IS ORDERED that the motion of Andre Warfield for an expanded certificate of appealability is DENIED.

Entered this 15th day of September, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge